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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/000,330 | 12/04/2001 | Heinz Berbner | 48606-DIV | 1457 |

26474 7590 12/08/2003
KEIL & WEINKAUF
1350 CONNECTICUT AVENUE, N.W.
WASHINGTON, DC 20036

EXAMINER

CHIN, PETER

| | |
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| ART UNIT | PAPER NUMBER |
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1731

DATE MAILED: 12/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary**Application No.**

10/000,330

Applicant(s)

BERBNER ET AL.

Examiner

Peter Chin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-17 and 19-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27 is/are allowed.
- 6) ☒ Claim(s) 12-17, 19-21, 24-26, 28 and 29 is/are rejected.
- 7) ☒ Claim(s) 22, 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 12, 25, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zettler et al (DE 3147308) and Nihongi et al (DE 2364091) in view of Weiser et al (EP 523485).

The claims are rejected for the reasons stated in the previous Office Action, mailed March 17, 2003.

In regard to newly added claim 28, in absence of any criticality as admitted to by Applicant in the remarks submitted with the current amendment to the claims, it is obvious that the prior art mat has the claimed thermal conductivity since the same mat components and thickness as claimed is used.

In regard to claim 29, in absence of any criticality as admitted to by Applicant in the remarks submitted with the current amendment to the claims, it would have been obvious that the prior art mat has the claimed sound adsorption since the prior art has the claimed mat components and thickness.

2. Claims 13-17,19-21,24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zettler et al (DE 314308) and Nihongi et al (DE 2364091) in view of Weiser et al (EP 523485) as applied to claims 12,25,28 and 29 above, and further in view of Berbner et al (WO 9701661).

The claims are rejected for the reasons given the previous Office Action, mailed March 17, 2003.

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3. Claims 22 and 23 are objected to for being dependent from a canceled claim. It appears that these claims should depend from claim 27, which now incorporates the limitation of canceled claim 18.
4. Claim 27 is allowed.
5. Applicant's arguments have been considered but are found unpersuasive of patentability.

It is implied that because Zettler et al prefers unmodified melamine aldehyde resin fiber that modified melamine aldehyde fibers cannot be used. The mere fact that there is a preferred embodiment does not militate against the use of modified melamine fibers especially when Zettler et al and Nihongi et al contemplate their use.

It is urged that Weiser et al's modified melamine formaldehyde resin fibers have improved resistance to hydrolysis and reduced release of formaldehyde but no disclosure as to use in products having low thermal conductivity and high sound absorption. Except for claims 28 and 29, there is no limitation as to any degree of thermal conductivity or sound absorption. In fact, Applicant in the last paragraph on page 11 spanning page 12 admit that there is no criticality as to the specific thermal conductivity and sound absorption property. Even so, one would be motivated to use the claimed modified melamine formaldehyde resin fiber for the improved properties taught by Weiser et al. Note that formaldehyde is a notoriously well known carcinogen and minimizing its presence in the environment is desirable.

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Berbner et al is cited to show that it is well known to employ polyester binder fibers as a binder for melamine aldehyde fiber non-woven and using such a binder as the binder in Zettler et al would have been obvious.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Chin whose telephone number is (703) 308-2046.

The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on (703) 308-1164. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7718.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.

A handwritten signature in black ink, appearing to read 'Peter Chin', with a long horizontal flourish extending to the right.

Peter Chin
Primary Examiner
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